

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
FRANK H. HOFFERT )  
 )  
Defendant. )

CASE NO.05-401M

DETENTION ORDER

Offense charged: The Complaint charges this Defendant with Conspiracy to Distribute Marijuana in violation of title 21 U.S.C. Sections 841 (a) (1);841(b)(1)(B) and 846.

Date of Detention Hearing: August 17, 2005

The court, having conducted a contested detention hearing pursuant to 18 U.S.C. § 3142(f), and based upon the factual findings and statement of reasons for detention hereafter set forth, finds that no condition or combination of conditions which the Defendant can meet will reasonably assure the appearance of the Defendant as required and the safety of any other person and the community.

FINDINGS OF FACT AND STATEMENT OF REASONS FOR DETENTION

- (1) There is probable cause to believe the Defendant committed the offense of Conspiracy to Distribute Marijuana for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.).
- (2) Therefore, there is a rebuttable presumption against the Defendant's release based upon both dangerousness and flight risk, under 18 U.S.C. § 3142(e).
- (3) Using the factors below, nothing in this record satisfactorily rebuts the presumption against release. Under Title 18 § 3142 (g), the court considered:
  - (A) The nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug .
  - (B) The weight of the evidence against the person . The Complaint describes a transfer of hockey bags filled with marijuana from this defendant's truck into the SUV of co-defendant, Peter Worley. This transfer was surveilled by federal agents.
  - (C) The history and characteristics of the person, including-
    - (a) The person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history.

In this case, this Defendant resides in California with no ties to this district. It does not have any prior criminal history save traffic infractions. Relevant here, however, is the inference taken from the Complaint and from the investigation by US Pre-trial Services that the Defendant does appear to lack legitimate

1 sources of income or employment. Posting a bond to obviate any risk of flight  
2 is reasonable, however, his bank accounts have been frozen. Detention is  
3 appropriate.

- 4 (4) Based upon the foregoing information, it appears that there is no condition or  
5 combination of conditions that would reasonably assure future Court  
6 appearances and/or the safety of other persons or the community.

7  
8 **It is therefore ORDERED:**

- 9 (1) The Defendant shall be detained pending trial and committed to the  
10 custody of the Attorney General for confinement in a correction facility  
11 separate, to the extent practicable, from persons awaiting or serving  
12 sentences or being held in custody pending appeal;
- 13 (2) The Defendant shall be afforded reasonable opportunity for private  
14 consultation with counsel;
- 15 (3) On order of a court of the United States or on request of an attorney for  
16 the Government, the person in charge of the corrections facility in which  
17 the Defendant is confined shall deliver the Defendant to a United States  
18 Marshal for the purpose of an appearance in connection with a court  
19 proceeding; and
- 20 (4) The clerk shall direct copies of this order to counsel for the United  
21 States, to counsel for the Defendant, to the United States Marshal, and to  
22 the United States Pretrial Services Officer.

23 DATED this 18<sup>th</sup> day of August, 2005.

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25 Monica J. Benton  
26 United States Magistrate Judge

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